

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : Sentencing Memorandum  
-against- : S3 14 Cr. 604 (VB)  
TYRON FELDER, :  
Defendant, :  
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Several months ago, my wife managed to get tickets for the Broadway musical “Hamilton.” As we waited for the show to start, I was reading the Playbill. I noticed that credit was given for music written by others that was adapted for use in the production. The name Christopher E. Martin did not register with me until almost the end of the first act. There is scene where Hamilton’s son participates in a duel. The scene is performed to a song entitled “Ten Duel Commandments.” As soon as the song started, I whispered to my wife that the song was based on a Biggie Smalls song entitled “Ten Crack Commandments.”

The late Biggie Smalls’ real name was Christopher Martin. Biggie Smalls, also known as “The Notorious B.I.G.,” was a rapper from Brooklyn who was killed in a drive-by shooting in Los Angeles in 1997. Sixteen days after his death, a Biggie Smalls album was released entitled “Life After Death” which includes the song “Ten Crack Commandments.” I have that album on my phone. During intermission, I played the original version that Lin-Manuel Miranda adapted for “Hamilton” for my wife. I have that album on my phone because of Tyron Felder.

This memorandum is respectfully submitted to request that Your Honor impose a sentence of less than life in prison. I have represented Tyron Felder since August 2014. I have gotten to know Mr. Felder and his family, such as it is. My hope is that Your Honor will impose a sentence that will allow a much older Tyron Felder the opportunity to use his intelligence outside of prison to benefit others.

When I first met Mr. Felder, it was clear that he spoke with a cadence and made references that were unfamiliar to me. As a criminal defense lawyer, I have listened to and spoken “street” most of my adult life. Listening to Mr. Felder speak, it was apparent that I was not getting the nuances of what he said. This is a bright guy who was trying to explain things to me. I had an obligation to educate myself so that I could better understand what Mr. Felder was trying to tell me. The cadence of his speech was my first clue. I asked Mr. Felder what music he likes. He gave me the names of several rap artists whom I had never heard of.

I am fortunate to have access to a group of people who are both half my age and who are willing to talk to me. I was instructed that to understand the artists on Mr. Felder’s list, I needed to acquire a background in rap classics. The two names that consistently came up were Biggie Smalls and Tupac Shakur. I bought music of both. I listened, and I learned. Their music helped me appreciate Mr. Felder and other clients as well. Listening to these artists expanded my vocabulary.

### The Crime

Mr. Felder has been convicted of two inexplicable murders. On August 5, 2014, Maodo Kane, who had emigrated from Africa and was working as a livery cab driver, picked up a fare. He was directed to a desolate area in the Bronx, forced out of his car and shot in the back of the head. The car was used to transport four men to a mini-mart in Yonkers that was robbed at gun point. A patron of the store was pistol whipped. A short time later, the four men robbed a Dunkin Donuts that was also in Yonkers. The car was then driven to the area of the Bronx near Yankee Stadium, doused with bleach and abandoned. With the exception of the shooting, most of the events outlined were captured by surveillance cameras.

On August 12, 2014, Aboubacar Bah, another emigrant from Africa who also was working as a livery cab driver, picked up a fare in the Bronx and was directed to the Hunts Point section of the Bronx. Mr. Bah was shot in the head. His body was dumped into the street. The car was driven off and soon abandoned. As with Mr. Kane a week earlier, most of the events were recorded by surveillance cameras.

The jury found Mr. Felder guilty of the carjacking murders of Mr. Kane and Mr. Bah, the Hobbs Act robberies of the mini-mart and the Dunkin Donuts, four weapons counts, and a conspiracy to commit robbery.

Tyron Felder's Personal History

Tyron Felder was raised in the Bronx. Our investigation into his background showed us that Mr. Felder's childhood was the nightmare that we imagine only happens to children in the poorest nations on this planet.

Tyron Felder is the third of five siblings. All of his siblings have the same mother, but there were four different fathers. Tyron never met his father and knows nothing about him. Tyron's mother, Yvone Felder, was 18 years old when he was born. When Tyron was a young child, Yvone married Frederick Allen, Sr., moved to River Park Towers and had two sons with Mr. Allen.

Both Yvone and Mr. Allen were alcoholics and gamblers. Mr. Allen physically abused Yvone and all of her children, including his own sons. Perlon Felder, Tyron's oldest brother remembers that Mr. Allen hit Yvone in front of the children. He recalls specifically an incident when Mr. Allen hit Yvone in a public area of River Park Towers when all of her children were present.

When Yvone and Mr. Allen went out to drink and gamble, they would leave the children with Yvone's mother, Tyron's grandmother, Viola Felder, who was an alcoholic. Mr. Felder's grandmother passed away during the pendency of this case. Mr. Felder's mother had died long before his arrest in this case. Perlon recalls that Viola was also physically abusive to the children and often left them on their own for days at a time.

Viola lived in River Park Towers. In 2017, I went to River Park Towers to meet with her. I asked her to show me a photograph of Tyron as a child. I routinely ask family members for pictures of my clients from their childhood. These pictures often jog memories and prompt the telling of stories from a better period in my client's life. Tyron's grandmother had many family photographs but none of Tyron. She had no clear recollection of Tyron.

I met Tyron's older brother, Perlon, while he was serving a New York State sentence. Perlon described Tyron's childhood as chaos. Perlon, who was barely a teenager himself, became Tyron's parent by default. Perlon recalls changing diapers and providing food for Tyron and his siblings. Perlon readily admits that he sold drugs and committed robberies to be able to provide them with food. Most people think of criminal activity as aberrant behavior. In the world where Tyron Felder was raised, selling drugs and committing robberies were what people did to put food on the table. Tyron's mother knew full well that Perlon started selling drugs when he was 13 years old, but she did not object or do anything to stop him.

When Tyron was about seven years old, Yvone became involved with Ronald Watson. Mr. Watson was also abusive and neglectful. We obtained records from the New York City Administration for Children Services ("ACS"). Records from 1999,

when Tyron was 10 years old, describe one example of the conditions of Tyron Felder's childhood.<sup>1</sup>

Caseworker's arrived at family's housing complex at around 11 pm. Tyron spotted Ron (mother's paramour) sitting outside with a group of men. Caseworker's approached him and identified as ACS officials. Paramour did not seem aware that child was missing and would only ask, "What did the bad ass do now". Caseworker gave brief detail of the events of the day and then asked if mother was at home paramour stated that "she should be". Child was taken upstairs to the apt where there was no response after several minutes of knocking on the door.

Note: 13 year old Shawana was seen outside the building riding bike when c/w's brought Tyron home. She did not acknowledge him, nor the fact that he was missing or in the presence of two strange adults. After several minutes of waiting, mother, paramour and two other siblings approached the apt. mother's only response to the child was "what did you do now". Once in the apartment caseworker read mother allegations of ORT.<sup>2</sup> She replied that she told him not to go back to the recreation center because he is always getting into trouble there. Mother's paramour then began to take over the conversation. He gave information that his name was Ronald Watson (DOB 02/28/57) and that he resided at the case address as well. He then proceeded to say that Tyron gets into trouble because the mother spoils him and he is just a "bad ass nigga" Mr. Watson said this about 5 times in the presence of the child and also stated that he could have gotten in contact with someone while he was at the precinct, but he was afraid of getting his ass whipped. Paramour went on to say that because they lived in the projects, the child was only going to learn how to fight and there was no help for him. Mr. Watson states that Tyron gets good marks in school and trophy's for different "shit" and his mother rewards him by letting him do anything that he wants.

Mother admitted that Ronald Watson has been part of the household for a few years now and that he often times drinks and is verbally belligerent to her and her children.

Mr. Watson told the ACS caseworker that "there was no help for" Tyron. Sadly, this was true. What I have never been able to understand is why a caseworker would

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<sup>1</sup> Grammatical errors and syntax are as they appear in the original records, which we will provide to the Court and the Government upon request.

<sup>2</sup> "ORT" Oral Report Transmittals. See, *In re A.D. Children*, 887 N.Y.S. 2d 430 (Kings Co. Fam. Ct.) (2009).

leave a child in such a situation. Given this description of “home” and the lack of care he received from those whose job it was to protect him, it is not surprising that Tyron Felder spent most of his adolescent years in juvenile facilities. Mr. Felder will spend most of his adult life in federal prison.

Federal Court

On July 28, 2017, Mr. Felder was sentenced by the Honorable Valerie E. Caproni for his conviction after a jury trial of being a member of a narcotics conspiracy (River Park Tower YGz) and for brandishing a weapon. Judge Caproni imposed a sentence of 18 years on the conspiracy count and a consecutive 8 year sentence on the weapons count.

The revised Pre-Sentence Report [“PSR”] at paragraphs 102 and 103 state that Your Honor must impose a mandatory sentence of 34 years on the 4 weapons convictions (Counts 2, 4, 6 and 8) and that this sentence must be consecutive to the 8 year sentence that Judge Caproni imposed on the weapons count on the case before Her Honor, for a total mandatory minimum sentence of 42 years. I would very much like to ask Your Honor to impose such a sentence, but it is respectfully submitted that Your Honor is required to impose a sentence that is consecutive to the entire 26 year sentence imposed by Judge Caproni. *See United States v. Gonzalez*, 520 U.S. 1, 11 (1997) (“[W]e hold that the plain language of 18 U.S.C. §924(c) forbids a federal district judge to direct that a term of imprisonment under that statute run concurrently with any other term of imprisonment, whether state or federal.”)

Under *Gonzalez*, it appears that Your Honor is required to impose a sentence of at least 34 years consecutive to the 26 year sentence imposed by Judge Caproni. Thus, as I understand *Gonzalez*, the 34 year minimum sentence that Your Honor is required to impose becomes an effective sentence of 60 years, which is 720 months.

Mr. Felder was 25 years old when he was arrested on August 15, 2014 for the crimes in the case before Your Honor. Assuming Mr. Felder receives credit for the time he has already served and earns all the available “good time,” he will not be released from custody until sometime after his 77th birthday. Should he live to see that day, Tyron Felder will be released into a world very different from the world we know today.

The world we know today is very different from the world that existed in living memory in this Court. I recently reviewed the December 21, 1976, sentencing transcript from *United States v. Matthew Madonna*, 76 Cr. 846 (RLC). The Honorable Robert L. Carter imposed a sentence of 30 years, which he said was the longest sentence that he ever imposed. In 1976, federal parole still existed. Now that federal parole has been abolished, Mr. Felder will spend more than 50 years in prison. Such a sentence exceeds the maximum sentence that could be imposed for murder in New York State. It is respectfully submitted that a sentence of 60 years – almost a full adult lifetime - is sufficient to serve the goals of sentencing.

Mr. Felder once told me, “I am not educated, but I am not stupid.” He is correct. It is respectfully requested that Your Honor impose a sentence that will permit an older, better educated Tyron Felder– having spent over half a century incarcerated and

participating in rehabilitation programs - to leave prison and have a positive impact on the lives of others.

Respectfully submitted,

/s/ Andrew G. Patel